

**JUDGE BRIANT**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
IN THE MATTER OF THE COMPLAINT

Civil Act

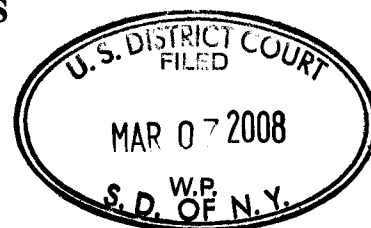
**08 CV 2042**

of

FRANK J. DIEBER, as owner of a 1988 20-foot Formula SR1 vessel for Exoneration from or Limitation of Liability.

Petitioner.

**ORDER RESTRAINING SUITS,  
APPROVING PETITIONER'S SECURITY,  
DIRECTING ISSUE OF NOTICE AND  
THE FILING OF CLAIMS**



**WHEREFORE**, a Complaint having been filed herein on February 29, 2008, by the above-named Petitioner as the owner of a 1988 20-foot Formula SR-1 vessel (hereinafter the "Vessel") for Exoneration from or Limitation of Liability, pursuant to 46 U.S.C. §30501 *et seq.*, and Rule F of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure concerning any alleged claims, damages, and/or losses arising out of or resulting from an accident alleged to have occurred on or about June 29, 2007, while the Petitioner's Vessel was operating on the navigable waters of Greenwood Lake, Orange County, State of New York, as more fully described in the Complaint; and

**WHEREAS**, the Complaint filed having stated that the value of the Petitioner's interest in the Vessel did not exceed the sum of \$7,500 on the date of the alleged accident; and

**WHEREAS**, the Petitioner has filed with the Court an *Ad Interim* Security dated February 29, 2008, for the benefit of any and all Claimants, by certified check payable to Clerk of Court - SDNY to be held by the Petitioner's attorneys, equal to the amount or value of Petitioner's interest in the said Vessel, it is hereby,

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**ORDERED** that the above-described *Ad Interim Security* in the sum of \$7,500 as aforesaid, filed by Petitioner for the benefit of any and all Claimant(s) as security representing the Petitioner's interest in the Vessel, be and is **hereby approved**, and

**IT IS FURTHER ORDERED** that the Court, only upon motion and good cause shown, shall cause appraisalment of the value of the Vessel and may thereupon order said security increased or reduced if it finds the amount thereof insufficient or excessive, and

**IT IS FURTHER ORDERED** that any Claimant in these proceedings may express, only upon good cause shown and by written motion filed with the Court and served upon all parties of record, its dissatisfaction with the security and, in this event, Petitioner shall within thirty (30) days of the entry of an order by the Court concerning the security, cause security to be posted in the form provided by Supplemental Rule F(1) of the Federal Rules of Civil Procedure and satisfactory to this Court failing which the injunction entered concurrently herewith will be vacated as to all Claimants, and the Court will make such further orders as the justice of the cause may require, and

**IT IS FURTHER ORDERED** that a **Notice shall be issued by the Clerk of this Court** to all persons asserting claims or suits with respect to which the Complaint seeks Exoneration from or Limitation of Liability admonishing them to file their respective claims with the Clerk of this Court, in writing, and to serve on the attorneys for the Petitioner a copy thereof, **ON OR BEFORE THE** 21<sup>st</sup> DAY OF April 2008, or be defaulted; and that if any Claimant desires to contest either the right to Exoneration from or the right to Limitation of Liability, such Claimant shall file and serve on the attorneys for the Petitioner, James E. Mercante, Esq., RUBIN, FIORELLA & FRIEDMAN LLP, 292 Madison Avenue, 11<sup>th</sup> Floor, New York, New York 10017, an Answer to the Complaint on or before the said date (unless the claim has included an Answer to the Complaint,

so designated), or be defaulted, and

*CMB/vsBJ*  
*Times Herald Record*  
**IT IS FURTHER ORDERED** that the aforesaid Notice shall be published by Petitioner in ~~Newsday~~, a newspaper with a general circulation including Orange County, New York, once a week for four (4) weeks before the return date of said Notice, as provided by the aforesaid Supplemental Admiralty Rule "F" and copies of said Notice shall be mailed by Petitioner in accordance with the rule to every person known to have any Claim against the Vessel or Petitioner, or to their attorneys, and

**IT IS FURTHER ORDERED** that the further prosecution of any and all actions, suits and proceedings already commenced and the commencement or prosecution hereafter of any and all suits, actions, or proceedings of any nature and description whatsoever in any Court of any jurisdiction, or otherwise, against the Vessel owner and/or the Vessel, and the taking of any steps, discovery, and the making of any motion in such actions, suits or proceedings except in this action, to recover damages for or in respect to the aforesaid accident alleged in the Complaint, **be and they hereby are restrained, stayed and enjoined** until the hearing and determination of this action, and all warrants of arrest and/or attachment issued or sought in such other suits, actions or legal proceedings be and the same are hereby dissolved and further warrants of arrest and/or attachment are hereby prohibited, and

**IT IS FURTHER ORDERED** that service of this Order as a Restraining Order be made through the Post Office by mailing a conformed copy hereof to the person or persons to be restrained, or to their respective attorneys.

Dated: White Plains, New York  
March 6, 2008

So Ordered:

*Chaan Bryant*

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U.S.D.J.

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